

C/M

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

MALCOLM E. SCOON,

Plaintiff,

- against -

POSTMASTER GENERAL JOHN E. POTTER,

Defendant.

**COGAN, District Judge.**

Plaintiff *pro se* has filed objections to the Report and Recommendation of Magistrate Judge Bloom entered March 11, 2011, in which she recommends granting defendant's motion to dismiss the case based on plaintiff's repeated failure to appear for his continued deposition. The objections are overruled, the Report and Recommendation is adopted in its entirety, and the motion to dismiss is granted.

The undisputed facts demonstrate a pervasive pattern of disrespect for the legal process, the Court, and defense counsel. Plaintiff's objections raise nothing that would question this conclusion. Plaintiff raised a host of reasons why he could not appear for his scheduled depositions, and the record shows that the Court and defense counsel made every effort to accommodate him and also warned him that his continued failure to appear for his deposition would result in the dismissal of his case. Despite these accommodations, plaintiff has amply demonstrated that he lacks the willingness to meet the most minimal obligation in choosing to bring this action, that is, appearing for his deposition.

The only other point plaintiff raises is that Magistrate Judge Bloom is prejudiced against prisoners and former prisoners generally and plaintiff (a former prisoner) specifically. The record in this case belies that contention. It shows that Magistrate Judge Bloom demonstrated a level of patience and accommodation that is extraordinary. Moreover, contrary to plaintiff's contention, this Court has observed this same level of patience in all of the many cases involving prisoners that she has handled, including some in which she has gone to enormous lengths to secure *pro bono* counsel for indigent plaintiffs who demonstrated that their claims might have merit.

### **CONCLUSION**

The Report and Recommendation [47] is adopted. The motion to dismiss [44] is granted. The Clerk is directed to enter judgment in favor of defendant dismissing the complaint and awarding sanctions in the amount of the \$425 under Federal Rule of Civil Procedure 37(b)(2)(A)(v), as recommended by Magistrate Judge Bloom. The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith and therefore *in forma pauperis* status is denied for the purposes of an appeal. See Coppedge v. United States, 369 U.S. 438, 444-45, 82 S. Ct. 917 (1962).

**SO ORDERED.**

/s/(BMC)

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U.S.D.J. / /

Dated: Brooklyn, New York  
March 30, 2011